
SUBSTITUTE SENATE BILL 6052

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Holmquist, Kline and Hargrove)

READ FIRST TIME 02/26/07.

1 AN ACT Relating to requiring arson offenders to register with the
2 county sheriff; amending RCW 9A.48.010, 10.01.200, 70.48.470, and
3 72.09.330; adding new sections to chapter 9A.48 RCW; adding a new
4 section to chapter 43.43 RCW; creating a new section; and prescribing
5 penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) Arsonists often pose a high risk of reoffense; and

9 (b) Law enforcement's efforts to protect our communities, conduct
10 investigations, and quickly apprehend arsonists are impaired by the
11 lack of information available to law enforcement agencies about
12 convicted arsonists who live out in the community.

13 (2) It is therefore the intent of the legislature to:

14 (a) Assist local law enforcement agencies to increase public safety
15 by providing them with another tool for them to use in arson
16 investigations; and

17 (b) Require arson offenders to register with local law enforcement
18 agencies in a regulatory, rather than punitive, manner.

1 **Sec. 2.** RCW 9A.48.010 and 2002 c 32 s 1 are each amended to read
2 as follows:

3 (1) For the purpose of this chapter, unless the context indicates
4 otherwise:

5 (a) "Arson offender" means a person convicted, or found not guilty
6 by reason of insanity, of arson in the first degree or arson in the
7 second degree;

8 (b) "Building" has the definition in RCW 9A.04.110(5), and where a
9 building consists of two or more units separately secured or occupied,
10 each unit shall not be treated as a separate building;

11 (~~(b)~~) (c) "Damages", in addition to its ordinary meaning,
12 includes any charring, scorching, burning, or breaking, or agricultural
13 or industrial sabotage, and shall include any diminution in the value
14 of any property as a consequence of an act;

15 (~~(c)~~) (d) "Property of another" means property in which the actor
16 possesses anything less than exclusive ownership.

17 (2) To constitute arson it is not necessary that a person other
18 than the actor has ownership in the building or structure damaged or
19 set on fire.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.48 RCW
21 to read as follows:

22 (1)(a) An arson offender who resides, whether or not the offender
23 has a fixed residence, in this state, or who is a student, is employed,
24 or carries on a vocation in this state, shall register with the county
25 sheriff for the county of the person's residence, or if the person is
26 not a resident of this state, the county of the person's school, place
27 of employment or vocation, or as otherwise specified in this section.

28 (b) An arson offender who lacks a fixed residence and is under the
29 supervision of the state department of corrections shall also register
30 in the county of his or her supervision if he or she is not already
31 required to do so under (a) of this subsection.

32 (c) An offender required to register under this section shall do so
33 in person.

34 (2)(a) An offender who has a fixed residence shall provide the
35 following information when registering:

36 (i) Name;

37 (ii) Residential address;

- 1 (iii) Date and place of birth;
- 2 (iv) Place of employment;
- 3 (v) Arson offense for which convicted;
- 4 (vi) Date and location of conviction;
- 5 (vii) Aliases used;
- 6 (viii) Social security number;
- 7 (ix) Photograph; and
- 8 (x) Fingerprints.

9 (b) An offender who lacks a fixed residence shall provide the
10 following information when registering:

- 11 (i) Name;
- 12 (ii) Where he or she plans to stay;
- 13 (iii) Date and place of birth;
- 14 (iv) Place of employment;
- 15 (v) Arson offense for which convicted;
- 16 (vi) Date and location of conviction;
- 17 (vii) Aliases used;
- 18 (viii) Social security number;
- 19 (ix) Photograph; and
- 20 (x) Fingerprints.

21 (3)(a) An arson offender shall register with the county sheriff
22 subject to the following deadlines and restrictions:

23 (i) OFFENDERS IN CUSTODY. An arson offender who is in the custody
24 of the United States bureau of prisons or other federal or military
25 correctional agency, the state department of corrections, the state
26 department of social and health services, a local division of youth
27 services, or a local jail or juvenile detention facility, for an arson
28 offense, shall register within twenty-four hours of the time of release
29 with the county sheriff for the county of the offender's residence, or
30 if the person is not a resident of this state, the county of the
31 offender's school or place of employment or vocation. A state or local
32 agency that has jurisdiction over the offender shall provide notice to
33 the offender of the duty to register.

34 (ii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. An arson
35 offender who is convicted of an arson offense, but who is not sentenced
36 to serve a term of confinement immediately upon sentencing, shall
37 report to the county sheriff to register immediately upon completion of
38 being sentenced.

1 (iii) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
2 RESIDENTS. An arson offender who moves to Washington state from
3 another state or a foreign country who is not under the jurisdiction of
4 the state department of corrections at the time of moving to Washington
5 must register within ten days of establishing residence or
6 reestablishing residence if the offender is a former Washington
7 resident. An arson offender from another state or a foreign country
8 who, when the offender moves to Washington, is under the jurisdiction
9 of the department of corrections must register within twenty-four hours
10 of moving to Washington. The agency that has jurisdiction over the
11 offender shall notify the offender of the registration requirements
12 before the offender moves to Washington. It is an affirmative defense
13 to a charge that a person failed to register within the deadlines in
14 this subsection (3)(a)(iii) that: (A) The person was not under the
15 jurisdiction of the Washington state department of corrections at the
16 time of moving to Washington; (B) the person was unaware of his or her
17 duty to register; (C) it was reasonable for the person to be unaware of
18 his or her duty to register; and (D) the person registered within
19 twenty-four hours of receiving notice of his or her duty to register
20 from a law enforcement official. The defendant must establish the
21 defense by a preponderance of the evidence.

22 (iv) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. An arson
23 offender who has been found not guilty by reason of insanity under
24 chapter 10.77 RCW of committing arson in the first degree or arson in
25 the second degree and who, on or after the effective date of this act,
26 is in custody, as a result of that finding, of the state department of
27 social and health services must register within twenty-four hours from
28 the time of release with the county sheriff for the county of the
29 person's residence. The state department of social and health services
30 shall provide notice to the arson offender in its custody of the duty
31 to register.

32 (v) OFFENDERS WHO LACK A FIXED RESIDENCE. Any arson offender who
33 lacks a fixed residence and leaves the county in which he or she is
34 registered and enters and remains within a new county for twenty-four
35 hours is required to register with the county sheriff not more than
36 twenty-four hours after entering the county and provide the information
37 required in subsection (2)(b) of this section.

1 (vi) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
2 SCHOOL IN ANOTHER STATE. An arson offender required to register in
3 Washington, who moves to another state, must send written notice within
4 ten days of moving to the new state or to a foreign country to the
5 county sheriff with whom the person last registered in Washington
6 state.

7 (vii) ALL OTHER OFFENDERS. An arson offender who is not subject to
8 one of the deadlines in (a)(i) through (vi) of this subsection shall
9 register no later than thirty days after the effective date of this
10 act. It is an affirmative defense to a charge of failure to register
11 under this section that (A) the charge of failure to register is based
12 solely on an out-of-state conviction that would require a person to
13 register in Washington if he or she had been convicted in Washington;
14 (B) the person who is charged works, carries on a vocation, or attends
15 school in Washington but resides in another state; (C) the person was
16 unaware of his or her duty to register in Washington; (D) it was
17 reasonable for the person to be unaware of his or her duty to register
18 in Washington; and (E) the person registered in Washington within
19 twenty-four hours of receiving notice of his or her duty to register
20 from a law enforcement official. The defendant must establish the
21 defense by a preponderance of the evidence.

22 (b) Failure to register within the deadlines required under this
23 section constitutes a per se violation of this section and is
24 punishable under subsection (8) of this section. The county sheriff is
25 not required to determine whether the person is living within the
26 county.

27 (c) An arrest on charges of failure to register, service of an
28 information, or a complaint for a violation of this section, or
29 arraignment on charges for a violation of this section, constitutes
30 actual notice of the duty to register. Any person charged with the
31 crime of failure to register under this section who asserts as a
32 defense the lack of notice of the duty to register shall register
33 immediately following actual notice of the duty through arrest,
34 service, or arraignment. Failure to register as required under this
35 subsection (3)(c) constitutes grounds for filing another charge of
36 failing to register. Registering following arrest, service, or
37 arraignment on charges shall not relieve the offender from criminal

1 liability for failure to register prior to the filing of the original
2 charge.

3 (4)(a) If any person required to register pursuant to this section
4 changes his or her residence address within the same county, the person
5 must send written notice of the change of address to the county sheriff
6 within seventy-two hours of moving. If any person required to register
7 pursuant to this section moves to a new county, the person must send
8 written notice of the change of address at least fourteen days before
9 moving to the county sheriff in the new county of residence and must
10 register with that county sheriff within twenty-four hours of moving.
11 The person must also send written notice within ten days of the change
12 of address in the new county to the county sheriff with whom the person
13 last registered. The county sheriff with whom the person last
14 registered shall promptly forward the information concerning the change
15 of address to the county sheriff for the county of the person's new
16 residence. Upon receipt of notice of change of address to a new state,
17 the county sheriff shall promptly forward the information regarding the
18 change of address to the agency designated by the new state as the
19 state's offender registration agency.

20 (b) It is an affirmative defense to a charge that the person failed
21 to send a notice at least fourteen days in advance of moving as
22 required under (a) of this subsection that the person did not know the
23 location of his or her new residence at least fourteen days before
24 moving. The defendant must establish the defense by a preponderance of
25 the evidence and, to prevail on the defense, must also prove by a
26 preponderance that the defendant sent the required notice within
27 twenty-four hours of determining the new address.

28 (5)(a) Any person required to register under this section who lacks
29 a fixed residence shall provide written notice to the sheriff of the
30 county where he or she last registered within forty-eight hours
31 excluding weekends and holidays after ceasing to have a fixed
32 residence. The notice shall include the information required by
33 subsection (2)(b) of this section, except the photograph and
34 fingerprints. The county sheriff may, for reasonable cause, require
35 the offender to provide a photograph and fingerprints. The sheriff
36 shall forward this information to the sheriff of the county in which
37 the person intends to reside, if the person intends to reside in
38 another county.

1 (b) A person who lacks a fixed residence must report weekly, in
2 person, to the sheriff of the county where he or she is registered.
3 The weekly report shall be on a day specified by the county sheriff's
4 office and shall occur during normal business hours. The county
5 sheriff's office may require the person to list the locations where the
6 person has stayed during the last seven days.

7 (c) If any person required to register pursuant to this section
8 does not have a fixed residence, it is an affirmative defense to the
9 charge of failure to register that he or she provided written notice to
10 the sheriff of the county where he or she last registered within forty-
11 eight hours excluding weekends and holidays after ceasing to have a
12 fixed residence and has subsequently complied with the requirements of
13 this subsection and subsection (3)(a)(vi) or (vii) of this section. To
14 prevail, the person must prove the defense by a preponderance of the
15 evidence.

16 (6) An arson offender subject to registration requirements under
17 this section who applies to change his or her name under RCW 4.24.130
18 or any other law shall submit a copy of the application to the county
19 sheriff of the county of the person's residence and to the state patrol
20 not fewer than five days before the entry of an order granting the name
21 change. No arson offender subject to the requirement to register under
22 this section at the time of application shall be granted an order
23 changing his or her name if the court finds that doing so will
24 interfere with legitimate law enforcement interests, except that no
25 order shall be denied when the name change is requested for religious
26 or legitimate cultural reasons or in recognition of marriage or
27 dissolution of marriage. An arson offender under the requirement to
28 register under this section who receives an order changing his or her
29 name shall submit a copy of the order to the county sheriff of the
30 county of the person's residence and to the state patrol within five
31 days of the entry of the order.

32 (7) For the purpose of this section:

33 (a) "Employed" or "carries on a vocation" means employment that is
34 full time or part time for a period of time exceeding fourteen days or
35 for an aggregate period of time exceeding thirty days during any
36 calendar year. A person is employed or carries on a vocation whether
37 the person's employment is financially compensated, volunteered, or for
38 the purpose of government or educational benefit.

1 (b) "Student" means a person who is enrolled, on a full-time or
2 part-time basis, in any public or private educational institution. An
3 educational institution includes any secondary school, trade or
4 professional institution, or institution of higher education.

5 (8)(a) A person who knowingly fails to register with the county
6 sheriff or notify the county sheriff, or who changes his or her name
7 without notifying the county sheriff and the state patrol, as required
8 by this section is guilty of a class C felony.

9 (b) Unless the person is relieved of the duty to register under
10 section 4 of this act, a violation of this section is an ongoing
11 offense for purposes of the statute of limitations under RCW 9A.04.080.

12 (9) The requirements of this section apply to an arson offender who
13 commits an arson offense on or after the effective date of this act.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.48 RCW
15 to read as follows:

16 (1) An arson offender may only be relieved of the duty to register
17 imposed under section 3 of this act by petitioning the superior court
18 under subsection (2) or (3) of this section.

19 (2) An offender having a duty to register under section 3 of this
20 act for an offense committed when the offender was an adult may
21 petition the superior court to be relieved of that duty, if the person
22 has spent ten consecutive years in the community without being
23 convicted of any new offenses. The court shall consider the nature of
24 the registrable offense committed, and the criminal and relevant
25 noncriminal behavior of the petitioner both before and after
26 conviction, and may consider other factors.

27 (a) The petition shall be made to the court in which the petitioner
28 was convicted, or found not guilty by reason of insanity, of the
29 offense that subjects him or her to the duty to register, or, in the
30 case of convictions in other states, a foreign country, or a federal or
31 military court, to the court in Thurston county. The prosecuting
32 attorney of the county shall be named and served as the respondent in
33 any such petition.

34 (b) The court may relieve the petitioner of the duty to register
35 only if the petitioner shows, with clear and convincing evidence, that
36 future registration of the petitioner will not serve the purposes of
37 this act.

1 (3) An offender having a duty to register under section 3 of this
2 act for an offense committed when the offender was a juvenile may
3 petition the superior court, at any time after adjudication, to be
4 relieved of that duty. The court shall consider the nature of the
5 registrable offense committed, and the criminal and relevant
6 noncriminal behavior of the petitioner both before and after
7 adjudication, and may consider other factors.

8 (a) The petition must be made in the manner required by subsection
9 (2)(a) of this section.

10 (b) The court may relieve the petitioner of the duty to register if
11 the petitioner shows, with clear and convincing evidence, that future
12 registration of the petitioner will not serve the purposes of this act.

13 (c) This subsection shall not apply to juveniles prosecuted as
14 adults.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.43 RCW
16 to read as follows:

17 (1) The county sheriff shall forward the information, photographs,
18 and fingerprints obtained pursuant to section 3 of this act, including
19 any notice of change of address, to the Washington state patrol within
20 five working days.

21 (2) The state patrol shall maintain a central registry of arson
22 offenders required to register under section 3 of this act.

23 (a) The state patrol shall grant access to the registry to law
24 enforcement agencies.

25 (b) The state patrol and the entities receiving information under
26 (a) of this subsection may not disclose the information obtained from
27 the registry to any other person or entity.

28 (3) The state patrol shall adopt rules consistent with chapters
29 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes
30 of this act.

31 (4) The state patrol shall reimburse the counties for the cost of
32 processing the offender registration, including taking the fingerprints
33 and photographs.

34 NEW SECTION. **Sec. 6.** A new section is added to chapter 9A.48 RCW
35 to read as follows:

36 (1) When an offender registers with the county sheriff pursuant to

1 section 3 of this act, the county sheriff shall notify the chief law
2 enforcement officer, if any, of the jurisdiction in which the offender
3 has registered to live. If the offender registers to live in an
4 unincorporated area of the county, the sheriff shall make reasonable
5 attempts to verify that the offender is residing at the registered
6 address. If the offender registers to live in an incorporated city or
7 town, the chief law enforcement officer of the city or town shall make
8 reasonable attempts to verify that the offender is residing at the
9 registered address.

10 (2)(a) For purposes of this section, "reasonable attempts" shall
11 include at a minimum sending by certified mail, with return receipt
12 requested, a nonforwardable annual verification form to the offender at
13 the offender's last registered address.

14 (b) The offender must sign the verification form, state on the form
15 whether he or she still resides at the last registered address, and
16 return the form to the chief law enforcement officer of the
17 jurisdiction where the offender is registered to live within ten days
18 after receipt of the form.

19 (3) The chief law enforcement officer of the jurisdiction where the
20 offender has registered to live, or the county sheriff if the offender
21 has registered in an unincorporated area, shall make reasonable
22 attempts to locate any arson offender who fails to return the
23 verification form or who cannot be located at the registered address.

24 (4) When an offender notifies the county sheriff of a change to his
25 or her residence address pursuant to section 3 of this act, and the new
26 address is in a different law enforcement jurisdiction, the county
27 sheriff shall notify the chief law enforcement officer of the
28 jurisdiction from which the offender has moved.

29 **Sec. 7.** RCW 10.01.200 and 1997 c 113 s 5 are each amended to read
30 as follows:

31 The court shall provide written notification to any defendant
32 charged with a sex offense or kidnapping offense of the registration
33 requirements of RCW 9A.44.130. The court shall provide written notice
34 to any defendant charged with arson in the first degree or arson in the
35 second degree of the registration requirements of section 3 of this
36 act. Such notice shall be included on any guilty plea forms and
37 judgment and sentence forms provided to the defendant.

1 **Sec. 8.** RCW 70.48.470 and 2000 c 91 s 4 are each amended to read
2 as follows:

3 (1)(a) A person having charge of a jail shall:

4 (i) Notify in writing any confined person who is in the custody of
5 the jail for a conviction of a sex offense as defined in RCW 9.94A.030
6 or a kidnapping offense as defined in RCW 9A.44.130 of the registration
7 requirements of RCW 9A.44.130 at the time of the inmate's release from
8 confinement, and shall obtain written acknowledgment of such
9 notification; and

10 (ii) Notify in writing any confined person who is in the custody of
11 the jail for a conviction of arson in the first degree or arson in the
12 second degree of the registration requirements of section 3 of this act
13 at the time of the inmate's release from confinement, and shall obtain
14 written acknowledgment of such notification.

15 (b) The person having charge of the jail shall also obtain from the
16 inmate the county of the inmate's residence upon release from jail and,
17 where applicable, the city.

18 (2)(a) When a sex offender or a person convicted of a kidnapping
19 offense as defined in RCW 9A.44.130 under local government jurisdiction
20 will reside in a county other than the county of conviction upon
21 discharge or release, the chief law enforcement officer of the jail or
22 his or her designee shall give notice of the inmate's discharge or
23 release to the sheriff of the county and, where applicable, to the
24 police chief of the city where the offender will reside.

25 (b) When an offender convicted of arson in the first degree or
26 arson in the second degree under local government jurisdiction will
27 reside in a county other than the county of conviction upon discharge
28 or release, the chief law enforcement officer of the jail or his or her
29 designee shall give notice of the inmate's discharge or release to the
30 sheriff of the county where the offender will reside.

31 **Sec. 9.** RCW 72.09.330 and 1997 c 113 s 8 are each amended to read
32 as follows:

33 (1) The department shall:

34 (a) Provide written notification to an inmate convicted of a sex
35 offense or kidnapping offense of the registration requirements of RCW
36 9A.44.130 at the time of the inmate's release from confinement and
37 shall receive and retain a signed acknowledgement of receipt; and

1 (b) Provide written notification to an inmate convicted of arson in
2 the first degree or arson in the second degree of the registration
3 requirements of section 3 of this act at the time of the inmate's
4 release from confinement and shall receive and retain a signed
5 acknowledgement of receipt.

6 (2) The department shall:

7 (a) Provide written notification to an individual convicted of a
8 sex offense or kidnapping offense from another state of the
9 registration requirements of RCW 9A.44.130 at the time the department
10 accepts supervision and has legal authority of the individual under the
11 terms and conditions of the interstate compact agreement under RCW
12 9.95.270; and

13 (b) Provide written notification to an individual convicted of
14 arson in the first degree or arson in the second degree from another
15 state of the registration requirements of section 3 of this act at the
16 time the department accepts supervision and has legal authority of the
17 individual under the terms and conditions of the interstate compact
18 agreement under RCW 9.95.270.

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